



Miami-Dade County Board of County Commissioners
Office of the Commission Auditor

Legislative Analysis

Board of County Commissioners

September 26, 2006
9:30 AM
Commission Chamber

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Commission Auditor

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Miami, Florida 33128
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BCC Legislative Analysis & Notes
September 26, 2006

Item No.	Subject Matter	Background	Analysis / Comments / Questions	LA
	Prepared By:	Bia Marsellos (BM) Troy Wallace (TDW) Jason T. Smith (JTS)	Mia Marin (MBM) Elizabeth N. Owens (ENO) Tim Gomez (TG) Guillermo Cuadra (GC)	If you require further analysis of these or any other agenda items, please contact Guillermo Cuadra, Esq., Chief Legislative Analyst, at (305) 375-5469.
1.	4(A) Approving special sewer construction connection charges	The proposed ordinance provides for the expansion of the local neighborhood sanitary sewers in the vicinity surrounding West Flagler Street. 1. Approval of this ordinance will allow the construction of special sewer connections to buildings and properties within the West Flagler Street area. <ul style="list-style-type: none"> ○ Similar projects have taken place in the vicinity of: <ul style="list-style-type: none"> i. Downtown Kendall ii. Brickell Village iii. S.W. 8th and Brickell Avenue 	<ul style="list-style-type: none"> • The Water and Sewer Department (WASD) has determined that new and improved sewer connections are necessary for providing sufficient capacity for the anticipated growth in the respective area. • The department will design and construct the new facilities with its own funds. • The department will be reimbursed later by collecting a pro-rata share of the cost from each property owner receiving new or improved sewer service in the area. The respective WASD customers will each pay a one-time fee for the special construction connection. • WASD has expressed the total cost will be approximately \$2,689,120. 	TDW
2.	4(B) Ordinance Amending Chapter 15 of the Code of MDC Regarding Payment of Disposal Facility Fees by Private Waste Haulers Operating in MDC	Ordinance amends Chapter 15 of the Code of MDC regarding payment of Disposal Facility Fees (DFF) by private waste haulers operating in unincorporated MDC as it was geographically configured on Feb. 16, 1996. The proposed ordinance clarifies that the DFF is limited to receipts for waste service. <ul style="list-style-type: none"> • 1995, Ordinance 95-174: Provides the DSWM with the funding necessary to provide waste disposal capacity in the County Solid Waste Management System (System) in accordance with the County's responsibilities for waste disposal under the Local Government Comprehensive Planning and Land Development Regulation Act and the MDC Home 	The AMS Report stated that hauling companies excluded the 15% recovery from gross receipts reported to the County, resulting in underreported fees estimated at \$3.1 million for the three-year audit period ended Sept. 30, 2004. The DFF ordinance states that the DFF is a percentage of "Gross Receipts", which the AMS Report maintains includes the 15% DFF fee. <ul style="list-style-type: none"> • The DSWM has been interpreting the DFF ordinance based on written commitments made to the waste hauling industry by the County Manager at the time the DFF was established. • The DSWM has, since 1995, required each private hauler 	ENO



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			<p>Rule Charter.</p> <ul style="list-style-type: none"> ○ The DFF generates approximately \$9 million in annual revenue, which the DSWM uses to pay System costs. • Feb. 16, 1996, Ordinance 96-30: Amends the sections of the Code pertaining to the DFF to ensure that the DFF would continue to be collected in newly incorporated areas. All areas of MDC that have incorporated since and any new municipalities remain subject to the DFF. • Sept. 30, 2005, The Audit and Management Services Department (AMS): Report on DFF identifying several instances where the DSWM was not adhering to the letter of the ordinance language. 	<p>to pay DFF equal to a percentage (now 15%) of the receipts for waste service provided to its customers.</p>	
3.	4(C)	MC Estates Multipurpose Maintenance and Street Lighting Special Tax	<p>District 9 MC Estates Multipurpose Maintenance and Street Lighting</p>	<p>Maintenance Services and Street Lighting Services provided by petitioner during the first year.</p> <p>Annual assessment per unit – Maintenance Service- Townhouse- \$229.97 Single Family Residence-Interior Lot- \$231.50 Single Family Residence-Corner Lot-\$271.60</p> <p>Street Lighting Service- Townhouse- \$21.26 Single Family Residence-Interior Lot- \$75.95 Single Family Residence-Corner Lot-\$139.75</p>	TDW
4.	4(D)	Ordinance creating sections 32-83.1 of the Miami-Dade County	<p>This ordinance creates sections 32-83.1 of the Miami-Dade County Code providing that public owned distribution systems served by the Miami-Dade Water and Sewer Department (MDWASD) prepare water conservation plans and submit them to the County.</p> <ul style="list-style-type: none"> • Approval of this proposal will assist the County in their efforts in meeting goals within their Water Use Efficiency 5-year Plan in 		TDW



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		Code	addition to developing the MDWASD twenty-year water conservation plan for the South Florida Water Management District (SFWMD) agreement.		
5.	4(E)	Proposed Ordinance Relating to Unsafe Structures Enforcement Procedures	<p>Ordinance amends Chapter 8 of the Code of MDC to repeal the sunset review provision of Ordinance No. 05-120 relating to unsafe structures appeals.</p> <ul style="list-style-type: none"> Oct. 5, 2005 – Ordinance 05-120 adopted to amend Chapter 8 of the Code of MCD relating to unsafe structures appeals, establishing unsafe structures appeal panels as an alternative to the Unsafe Structures Board to hear appeals involving single-family homes, duplex residences and certain accessory structures. The proposed Ordinance would permanently adopt the use of the alternative appeal process for single-family homes, duplex residences and certain accessory structures. 		ENO
6.	4(F)	Amendments Pertaining to Infill Housing Initiative	This ordinance amends Article VII, Sections 17-121 through 17-126, and creates additional sections.		BM
7.	5(A)	Ordinance Creating the Fountainbleau Lakes Community Development District (CDD)	<p>District 10</p> <ul style="list-style-type: none"> Proposed 272.12 acre residential development for a maximum of 1,440 condominiums and 450 courtyard/townhouse units with associated roadway, storm drainage and water and sewer facilities. Location: bounded by theoretical NW 87 Place on the east, theoretical NW 105 Avenue on the west, West Flagler Street on the South and State Road No. 836 right-of-way on the north. Estimated cost approximately \$20 million. No Fiscal Impact. No Committee Review. 		ENO
8.	5(B)	Ordinance Creating the Homestead 50 Community Development District (CDD)	<p>District 9</p> <ul style="list-style-type: none"> Proposed 51.8570 acre residential single family and townhome development of 117 residential units and 183 townhome units, with associated roadway, earthwork, storm drainage and water and sewer facilities. Location: lying wholly within the City of Homestead, bounded by SW 320 Street and theoretical SW 323 Street on the north, theoretical SW 323 Street and theoretical SW 325 Street on the south, SW 157 Avenue and theoretical SW 159 Avenue on the east and theoretical SW 159 Avenue and SW 162 Avenue on the west. Estimated cost approximately \$4.411 million. No Fiscal Impact. 		ENO



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			<ul style="list-style-type: none"> No Committee Review. 		
9.	5(C)	Ordinance Creating the Enclave at Black Point Marina Community Development	District 8 <ul style="list-style-type: none"> Proposed 50.38 acre residential development of a maximum 240 residential units with associated roadway, storm drainage and water and sewer facilities. Location: bounded by SW 104 Avenue and Black Creek (C-1) right-of-way on the east, State Road No. 821 right-of-way (Homestead Extension of Florida's Turnpike) on the west, SW 232 Street on the south and Old Cutler Road (SW 224 Street) on the north. Estimated cost approximately \$7.512 million. No Fiscal Impact. No Committee Review. 		ENO
10.	5(D)	Class 1 permit application for Flagstone Island Gardens, LLC and the City of Miami	<ul style="list-style-type: none"> This proposal also includes a variance for the placement of non-water dependent fixed structures over tidal waters and acceptance of a restrictive covenant running with the land in favor of Miami-Dade County. This proposal provides a Class 1 Permit Application by Flagstone Island Gardens, LLC and the City of Miami to dredge 15.81 acres of submerged bay bottom for the creation of a 50 slip mega yacht marina. 	<ul style="list-style-type: none"> This project is located on Watson Island in the City of Miami and it will consist of the re-configuration of an existing 43 slip facility into a 50-slip international mega yacht harbor. The project will accommodate vessels up to 465 feet in length. The permit will allow dredging of 15.81 acres of submerged Bay bottom. The proposed dredging will affect various marine resources, seagrass habitat, hard bottom/sponge communities, and macro algal communities. To mitigate the lost of this project the applicants propose to restore lost seagrass habitat in areas of Biscayne Bay that have been dredged in the past. <ul style="list-style-type: none"> The reason for requesting a variance for fixed structures over tidal waters is because the applicant would like the opportunity to construct planter, roof structures, storage closets, security fences, vessel fueling service lines, and two pylons with statues on the piers over tidal waters. 	TDW



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11.	5(E)	Plat – Matah Subdivision District 11			TDW
12.	5(F)	Plat – Mystic Forest Second Addition District 10			
13.	5(G)	Plat – Rivendell East District 11			
14.	5(H)	Plat – Sierra Subdivision District 7			
15.	5(I)	Plat – Enclave at Black Point Marina District 8			
16.	5(J)	Plat – Walgreen Company District 8			
17.	5(K)	Plat – Hindu Society of America, Inc. District 9			
18.	5(L)	Plat – Grizzly Holdings, LLC District 9			
19.	5(M)	Plat – Landmark 107 District 12			
20.	5(N)	Plat – Mystic Forest Second Addition			



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		District 10			
21.	7(A)	Ordinance Amending Section 29-124 of the Codes of Miami-Dade County related to the utilization of PTP Surtax monies by municipalities	<p>On November 5, 2002, the voters of Miami-Dade County approved ½ cent Surtax for Transportation.</p> <p>Part of the Ordinance (No. 02-116) established that 20% of funds collected through the Surtax would be distributed to the municipalities in Miami-Dade County that were established as of November 5, 2002.</p> <p>Sec. 29-124 of the Codes of Miami-Dade County outline the approved uses of the PTP Surtax.</p> <p>It was established, at the time, that from the County's share of the Surtax proceeds, no more than 5% could be used on administrative costs.</p> <p><u>There was no such requirement applied to the 20% municipal share.</u></p>	<p>This ordinance applies the similar restriction, that no more than 5% of the PTP proceeds shall be spent on administrative functions, to the cities.</p> <p>This issue was discussed at the annual Municipal Transportation Workshop. No objections were raised by the municipalities in attendance.</p> <p>The Citizens' Independent Transportation Trust (CITT) is responsible for monitoring municipal expenses for compliance with the terms of this ordinance.</p>	TG
22.	8(A)1(A)	<p>Award recommendation for RFP for Retail Program</p> <p>RFP No. MDAD-05-05, Package 4</p>	<p>Firms were able to propose as prime concessionaire, developer or direct lessee (developer and concessionaire subtenant's percentage fee is three percent lower than direct lessee).</p> <p>Technical evaluation included assessment of point based on local themes and local ownership.</p> <p>Pursuant to the Lease and Concession Agreement, Prime Concessionaire, Developers, and/or Direct Lessees will pay Minimum Annual Guarantee (MAG) which includes rent, or percentage of gross revenue, which ever is greater.</p>	<p>MAG is \$192,002.25 and the minimum monthly guarantee is one-twelfth of the MAG.</p> <p>Proposed concept: Books/Café-Dunkin Donuts.</p> <p>ACDBE of 35% to Carrie Concessions.</p> <p>Company location: Ann Arbor, MI.</p> <p>Note: Bid Protest was filed 7/11/06 by AMS of South Florida regarding the awarding of points for ACDBE participation when</p>	GC



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			<p>Prime Concessionaires, Developers, and/or Direct Lessees are required to have in place a MAG and Rent Performance Bond equal to 75% of MAG and rents for current year of operation.</p> <p>Prime Concessionaires, Developers, and/or Direct lessees are required to provide an irrevocable letter of credit or cash as Payment Security in an amount equal to three times the minimum monthly guarantee plus rental and applicable taxes.</p> <p>Airport Concession Disadvantage Business Enterprise (ACDBE) goal is 30%.</p> <p>Recommended Company name: Borders, Inc.</p>	<p>the RFP did not provide the goal requirement. On 8-14-06, Judge Rivkind decided the ruling cannot be overturned. The Hearing Examiner concurred County Manager recommendation to uphold the award.</p> <p>Note: This item is being withdrawn.</p>	
23.	8(A)1(B)	Ratifying Actions in Settling Claims under One Million Dollars pursuant to R-224-06	<p>R-224-06 authorizes the Manager or designee to negotiate and settle contractor claims in an amount not to exceed \$1,000,000 per claim for each contract, subject to review and approval by the Owner Review Board and the County Attorney.</p> <p>Alpha Corporation (County's Claim Consultant), has reviewed the outstanding claims between May 1, 2006 through August 2006 to mitigate the claims.</p>	<p>Original NTD claim amount: \$9,058,521. Currently, settled claims total: \$5,194,398.</p>	MBM
24.	8(B)1(A)	Acceptance of Grants	<ul style="list-style-type: none"> • Program: Community Action Agency's Head Start and After School Snack Program • Funding: \$3,420,411 • Matching Funds: None required • Funding Period: Oct. 1, 2006 - Sept. 30, 2007 • Number of Persons/Units Served: 2,564 children in CAA's Head Start/Early Head Start Centers; 6,319 children in CAA's after school snack program 		JTS



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25.	8(D)1(A)	Exchange of Property Rights Deferred	District 12 <ul style="list-style-type: none"> 60 feet of canal reservation is no longer needed by Miami-Dade County to Rangel Fernandez, in exchange for 70 feet of land for right-of-way for the N.W. 97th Avenue Canal. Location: West of N.W. 97th Avenue and South of N.W. 137th Street Section 29, Township 52 South, Range 40 East 		JTS
26.	8(P)1(A)	Retroactive Change Order (No. 3 and Final) with R.L. Saum Construction Company, Inc.,	R.L. Saum was contracted to construct a new toll plaza and associated structures on the Venetian Causeway. <ul style="list-style-type: none"> This project consists of the demolition and construction of a new toll plaza canopy structure, new toll booths, administration building, parking area, bike paths, walkways, and reconstruction of electronic toll system. 	<p>This Change Order consists of an increase of \$287,852.84 and 413 calendar days for necessary improvements to the design requested by the Public Works Department (PWD)</p> <ul style="list-style-type: none"> Total percent increase from original amount – 16.76% The Change order also consist of negotiated settlements with the contractor <ul style="list-style-type: none"> A Negotiated settlement of \$140,000 (down from the original claim of \$412,084.33). A Negotiated settlement balance of \$75,989.26. A Negotiated settlement balance of \$75,832.35 There seems to be a discrepancy in the value the department has provided as the Change Order amount in the item (\$287,852.84) and the Change Order amount calculated when adding the three settlements for a total of 291,821.61. <p>The Department has identified the following conditions as justification for the Change Orders:</p> <ul style="list-style-type: none"> Department requested Changes Utility Conflicts Regulatory Changes <p>Total increase in days of all Change Orders – 600 days.</p> <ul style="list-style-type: none"> Contract Completion Date after Change Orders – May 24, 	TG/ TDW



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				2005 <ul style="list-style-type: none"> The Change Order will be funded by Rickenbacker Causeway funds. 	
27.	8(P)1(B)	Change Order (No. 1 and Final) with Hard J Construction Corporation	Hard J Construction Corporation was contracted to construct a pump station connecting an existing exfiltration drainage system. <ul style="list-style-type: none"> This project consists of the demolition and construction of a new toll plaza canopy structure, new toll booths, administration building, parking area, bike paths, walkways, and reconstruction of electronic toll system. 	This Change Order consists of an increase of \$20,115.33 and 276 calendar days for unforeseeable county requested changes requested by the Public Works Department (PWD) <ul style="list-style-type: none"> This change order comes as a result of a legal dispute and court order mediation pertaining to work provided by the contractor without payment by the County. This change order provides reimbursement of costs and an extension of contract days due to delays associated with additional work to construction plans requested by PWD. 	TDW
28.	11(A)1	Allocation of Office of the Chair Budget Funds Chairman Joe A. Martinez	This resolution approves the allocation of funds from the Office of the Chair's Budget for the following programs: <ul style="list-style-type: none"> Do the Right Thing of Miami for the 2007 trip to London for the DTRT county-wide winners - \$2,000. Miami-Dade County Commission for Women, 35th Anniversary Reception - \$1,000 Prime Time Seniors - \$500 Family Resource Center of South Florida, Inc - \$500 Grupo Folklore Latino for El Festival Chileno - \$1,000 		JTS
29.	11(A)2	Conveyance of 12 Infill Housing lots to the Empowerment Trust for the development of affordable housing Commissioner Dorrin D. Rolle	This resolution authorizes: <ul style="list-style-type: none"> The conveyance of 12 infill housing lots in District 2 to the Miami-Dade Empowerment Trust, Inc., approves a County Deed to convey the land and authorizes the Mayor to execute the Deed on behalf of the County. The allocation of \$1,200,000 Documentary Surtax dollars to the Empowerment Trust to be used over a two (2) year period. 	<ul style="list-style-type: none"> Staff is currently compiling information regarding available Surtax funds and uses. Item 4(F) in this agenda proposes amendments to Article VII of the Miami-Dade County Code, pertaining to the Infill Housing Initiative. The Report on the Status and Recommended Changes to Infill Housing Initiative Program states that there are inconsistencies in the inventory of available lots. 	BM



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				<ul style="list-style-type: none"> Have the inconsistencies with the Infill Housing Initiative been resolved? 	
30.	11(A)3	Urging the Florida Legislature to Call a Special Session and pass Legislation Regarding Property Insurance Chairman Joe A. Martinez	This item urges the Florida Legislature to call a special session and pass legislation which would address the property insurance crisis facing home, business, and real estate owners in Florida. <ul style="list-style-type: none"> This item also directs the Office of Intergovernmental Affairs to include this as a priority in the 2006-07 Legislative Package. 		JTS
31.	12(A)1	Settlements in Inverse Condemnation Proceedings in Connection with the Widening and Improvement of the Right of Way for NW 74 th Street from NW 84 th Avenue to the Palmetto Expressway	This resolution authorizes the County Attorney to settle all claims in the amount of \$1,744,482 against the County in eminent domain proceedings with five (5) property owners that filed an inverse condemnation action against Miami-Dade County in Circuit Court Case No. 02-25202 (CA 24).		BM
32.	15(B)3	Personal Property Cut-out Summary Sheets	This item approves the tax cut-out summary sheets for real and personal property, submitted by the Property Appraiser.		JTS
33.	15(B)4	Personal Property Cut-out Summary Sheets	This item approves the tax cut-out summary sheets for real and personal property, submitted by the Property Appraiser.		JTS
34.	15(B)5	Certification, by the Supervisor of Elections,	In order to get a question on a Countywide ballot on Miami-Dade County, the petitioner must obtain the signature of 10% of the registered voters of the County, at the time the petition is submitted for legal sufficiency.		TG



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		of the Signatures for petition to place the “Office of Executive Mayor” question on a Countywide ballot.	<ul style="list-style-type: none"> • The petition has 60 days to obtain the signatures. • The number of valid signatures required at the time of this petition was 107,391. • No more than 25% of the signatures can come from any single commission district. <p>The Citizens for Reform submitted 167,899 signatures to the supervisor of elections.</p> <p>The Supervisor of Elections certified that 123,806 of the signatures were valid on August 8, 2005.</p>		
35.	15(C)1	Appointment to the Citizens’ Independent Transportation Trust (CITT) Nominating Committee	<p>Ordinance 02-117 provides for the membership of the CITT Nominating Committee.</p> <ul style="list-style-type: none"> • The ordinance states that one member shall be appointed by the President of Miami-Dade College. <p>Ms. Judy Schmelzer has been recommended by the President of Miami-Dade College.</p>		TG
36.	15(C)2	Appointment and Waiver of Residency Requirement to serve on the Community Small Business Enterprise Board	<p>Pursuant to § 10-33.02 of the Miami-Dade County Code, the Air Conditioning and Refrigeration Association, Inc. may recommend an appointee, for BCC approval, to the Community Small Business Enterprise Board.</p> <p>They have recommended Julie Dietrich, Executive Director of the Mechanical Contractors Association of South Florida, who resides in Boca Raton and must have the County’s Residency Requirement waived by 2/3 of the vote of the Board.</p>		BM

